



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/431,457	11/01/1999	DIRK JANSEN	DT-3198	8744

30377 7590 05/23/2002

DAVID TOREN, ESQ.
SIDLEY, AUSTIN, BROWN & WOOD, LLP
875 THIRD AVE
NEW YORK, NY 10022

EXAMINER

MYSTER, JACQUELYN M

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/431,457

Applicant(s)

JANSEN, DIRK

Examiner

Jacquelyn M. Myster

Art Unit

2863

-- Th MAILING DATE of this communication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2863

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 198 50 841.7, filed on November 4, 1998 in Germany.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "38" in Fig. 1, "48" in Figs. 2,3, and 4, and "56" in Fig. 5. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the text boxes in Fig. 6 do not contain any text. Fig. 2 also appears to have incomplete text boxes. A proposed drawing correction or corrected

Art Unit: 2863

drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because the abstract is generally unclear. The abstract appears to be a translation and should be revised to improve its clarity. Complete review and correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: The “Brief Summary of the Invention” on page 6 is unclear. The text appears to be a translation and should be changed to improve its clarity. “4” is Fig. 1 is a voltage source according to the specification, however it does not appear that 4 is pointing to a voltage source. Appropriate correction is required.

The text beginning with the 4th full paragraph on page 18 of the specification to the end of the specification is generally unclear (again this text appears to be a translation). Complete review and revision is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-22 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2863

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

With respect to Claim 1 in particular, the applicant claims a method for operating; however it is unclear what method steps the applicant wishes to claim as his invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 (as best understood in light of 112 2nd paragraph problems) is rejected under 35 U.S.C. 102(b) as being anticipated by Niehoff.

With respect to Claim 1, Niehoff teaches:

- an electrical drive means (motor 98; Fig. 5);
- a displacement means (plunger 12; Fig. 5);
- an electronic control means (servo control 94 and CPU 52; Fig. 3);
- a non-volatile write-read memory (battery-backed RAM 132; Fig. 4);
- a electrical voltage source (power supply 106; Fig 3);
- a data interface connected to the control (UART #1 and UART #2, Fig 3.);
- a computer (console 30; Fig 2A- shown in detail in Fig 4);
- data transfer means (interfaces 80,70,72,74,78, and 148; Figs. 3 and 4);
- parameters (Fig. 6A-6F);
- user parameters (Fig. 6A-6F);
- and remote control capabilities (Column 4, lines 62-65).

Art Unit: 2863

With respect to Claim 2, Niehoff teaches interfaces that communicate by contact (Column 7, lines 18-28).

With respect to Claim 3, Niehoff teaches interfaces that communicate without a wire (column 10, lines 48-60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6, 8, 10-13, 21, and 22 (as best understood in light of 112 2nd paragraph problems) are rejected under 35 U.S.C. 103(a) as being unpatentable over Niehoff.

With respect to Claims 4 and 6 Niehoff teaches optical communication (column 10, lines 48-60). Niehoff does not teach communication via radio, induction, capacitance, or IR transmitters and receivers. However these types of interfaces are well known functional equivalents for wireless connecting. Therefore it would have been obvious to replace the data interface of Niehoff with a radio, inductive, or capacitive interface in order to allow the displacement means to be removed from the main control.

With respect to Claim 5, Niehoff does not explicitly disclose data interfaces of the metering device having electrical contacts. However, if the electrical contacts are electrically

Art Unit: 2863

connected to one another through the use of a cable it would be inherent that there would be some type of electrical contact.

With respect to Claim 8, Niehoff teaches control which comprises a microcomputer (powerpack; 50) .

With respect to Claim 10, Niehoff does not explicitly teach a PC connected to the data transfer means. However console does include all of the circuitry of the personal computer (CPU, ROM, RAM, and Input output functions. It would have been obvious to connect the circuitry to a PC in order to reduce the cost of the system (the system could used with existing hardware in the computer).

With respect to Claim 11, Niehoff teaches the data interface of the data transfer means connected to a computer through a data bus (52) and data buffers (57).

With respect to Claim 12, Niehoff teaches a computer which comprises a microcomputer. The examiner considers a microcomputer to be a computer system with a microprocessor. Niehoff teaches processor 52.

With respect to Claim 13, Niehoff teaches a non volatile memory (Battery Backed Ram; 132), Keyboard (keypad 34), and a display (LCD 32). Niehoff also teaches a serial interface (RS-422 interface 148).

With respect to Claim 21, Niehoff discloses a hand metering device (powerhead 40) which is independent of the main supply (powerpack 50).

With respect to Claim 22, the data transfer means of Niehoff are considered to be stationary since they are within the body of the powerpack (50; 2C).

Art Unit: 2863

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niehoff as applied to claim 5 above, and further in view of Webopedia.com.

With respect to Claim 7, Niehoff et al. do not explicitly disclose the data interfaces which are serial data interfaces, however this would be inherent to their system because of their use of RS422 interfaces which are used to support serial data transfers (see definition from webopedia.com).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niehoff as applied to claim 8 above, and further in view of Blomquist.

With respect to Claim 9, Niehoff does not teach the use of a flash memory. Blomquist teaches a flash memory (150; Fig. 4B). It would have been obvious replace the memory of Niehoff with the flash memory of Blomquist because it is can be easily reprogrammed.

Claims 14 – 17, 19, and 20 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Niehoff as applied to claim 5 above, and further in view of applicants admitted prior art (EPO 0 864 364 A2).

With respect to Claims 14, 15, and 19 Niehoff does not teach the use of charging interfaces. Applicants admitted prior art teaches a charging interface (charging station) connected to a chargeable voltage source (batteries). At the time the invention was made, it would have been obvious to use a charging station in order to allow the device to be used without being attached to a stationary power source.

With respect to Claim 16, Niehoff teaches the control means cooperating with the charging current control of the metering device (Pressure sensing circuit 96).

With respect to Claim 17, Niehoff teaches a regulating means which evaluates the charged condition (column 8, lines 34-53).

With respect to Claim 20, Niehoff nor the applicants prior art teach electrical charging contacts. However, if the system of EP 0 864 364 A2 is to be used it would be inherent part of that system to provide a way for charge to flow from the charging station into the terminal of the batteries, which would be in the form of a charging contact.

Claim 18 (as best understood) is rejected under 35 U.S.C. 103(a) as being unpatentable over Niehoff in view of applicants admitted prior art as applied to claim 14 above, and further in view of Howson et al.

With respect to Claim 18, Niehoff does not teach the use of several metering devices. Howson teaches the use of plurality of metering devices. It would have been obvious to provide data interfaces to several metering devices (ie. Powerhead of Niehoff) in order to allow many users to perform metering operations simultaneously.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacquelyn M. Myster whose telephone number is (703) 305-3343. The examiner can normally be reached Monday through Thursday 8:00 am to 5:30pm and alternate Fridays 7:30 am- 4:00pm

Art Unit: 2863

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John S. Hilten can be reached on (703) 308-0719. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308- 5841 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

jmm

May 20, 2002



JOHN S. HILTEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800